From: David Wright Escott
To: Microsoft ATR
Date: 12/9/01 9:00pm
Subject: Microsoft Settlement

Dear Sir or Madame,

I would like to express my disagreements with the proposed microsoft settlement. I have two major concerns with the settlement, the first being the power that Microsoft is given to determine who should be given protections under the settlement and the second concerns the retributions that Microsoft will be making to the government itself.

Section III(J)(C) of the proposed settlement allows Microsoft to determine which companies would be allowed access to its API, Documentation and Communtications Protocols. Specificly the settlement states that Microsoft may deny this access to businesses that do not meet "reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business." Before accepting this settlement it is imperative that we understand which businesses Microsoft would consider unauthentic and unviable.

At many times over the past year Microsoft executives have criticized the open source movement and more specificly the GPL. Microsofts position is that the GPL is a danger to intellectual property. Microsoft feels that by placing code under the GPL programs are making the code unavailable to the corporate world (itself included) and thereby dangerous to the viability of any company that models itself on the open source philosophy. From these statements it is clear that Microsoft would question the viability of companies like Redhat and non-profit foundations like Apache and Samba.

However it is companies like these that are most likely to threaten Microsoft's position. Currently Apache is the most popular webserver on the internet and GNU/Linux led by companies like Redhat, Suse, and Mandrake are pushing older proprietary UNIX distributions out of larger mainframes and servers. Furthermore projects like Samba are critical to the proliferation of these opensource companies as they provide facilities to connect the high-end UNIX servers with low-end Windows based clients by providing the seemless file-sharing and printer-sharing provided by Microsoft or Netware based networks. If Microsoft were to determine that these companies, and organizations did not have authentic or viable business models, and were to restrict access to the Microsoft/Windows Communications Protocols these projects could be stopped in their tracks leading to a collapse of the opensource movement as an effective competitor to proprietary Microsoft solutions.

Another key point is that Netscape now bases its browser off of the Mozilla renderer. Mozilla is an opensource project that Microsoft could easily determine is not a viable competitor. We have already seen Microsoft restrict access to its msn.com portal for users of other non-internet explorer browsers, and users of Mozilla/Netscape are

unable to change their msn.com webmail passwords because of security concerns that Microsoft has with the browser. It seems clear to me that Microsoft would be eager to leverage its power to determine the viability of competitors business models to restrict Netscape/Mozilla's access to the Windows API and Microsoft ActiveX controls for webbrowsers. These restriction could make these products even more unusable in the many Internet Explorer optimized sites on the web.

Internet Explorer has a great advantage over Netscape on Windows because of its intergration into the OS. Much of the code and resources used by IE are already loaded into memory by the system so it takes little time for IE to load and become user-ready. Netscape on the other time must load itself from the hard drive increasing the time it takes for it to become available to the user. If Microsoft were to deny Netscape from access to Documentation on its API because of its Mozilla/GPL roots Netscape engineers would be unable to find ways to optimize the Mozilla code to load faster further increasing the time it takes for Mozilla to load. This simple restriction would inevitable drive Netscape off the Windows desktop and further increase the market share of IE as the browser of choice.

This would give Microsoft Web Servers a distinct advantage over Apache and other competitors because of its ability to provide ActiveX controls that other browsers could not provide because Microsoft would not be required to provide its API to non-profit GPL based companies and organizations.

I fail to see how the Government could have not forseen this as a possible outcome considering that much of the lawsuit was directed at the browser war between IE and Netscape Navigator.

Finally I would like to point out that many other Microsoft competitors have decided to incorporate opensource software in its business model. IBM has begun to push Linux as the OS of choice on many of its servers as an alternative to IBM's proprietary OS. Sun has decided that GNOME 2.0 will form the basis for its new Solaris graphical interface. Compaq has worked extensively to develop 64 bit Linux variations for Alpha's and now Intel's 64 bit chips, as well as ports of Linux to handheld devices currently running Windows CE. And finally Apple has introduced its new operating system based on a variation of FreeBSD UNIX. Although Microsoft could not easily suggest that these companies do not have authentic or viable business models but Microsoft could chip away at the non-profit organizations that provide the basic work needed to make these products usable. In this manner Microsoft could subvert these companies attempts to develop new Microsoft-independent products.

This alone should be reason enough for concern but Microsoft has also managed to find a way to introduce its products even further into society, by offering computers equiped with Microsoft software to schools across the country. Microsoft would be allowed to determine the value of the software it would provide as part of the total evalution of the retribution that the company would pay. It seems illogical that a company should be allowed to determine the worth of

its own payment. Does an elementary school student need the advanced graphing features of Excel? Do most people need all the features of Word, or Powerpoint? Is the ability of Internet Explorer to display animations or ActiveX handles truly worth the value to a school that Microsoft will determine they are? I believe that the answer to these questions are no. School systems should be allowed to take the money that Microsoft would have given in hardware and software to instead purchase their own technology solutions in whatever manner they choose. Like all government contracts these solutions should be provided after open and fair competition between various competitors. To allow Microsoft to provide the solutions themselves is to simply provide Microsoft with an opportunity to infiltrate the school system and make users more dependent upon its software and services.

Although I have not studied all of the settlement I cannot overlook these two areas as critical flaws in the Justice Departments settlement. I believe that the Government would be making a great mistake by accepting these terms and I would greatly encourage the Justice Department to not accept this agreement.

David Escott
Home: School:
4230 Allistair Rd.   1406 Harvard Yard Mail Center
Winston-Salem NC   Cambridge MA
27104   02138-7504